

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Applicants thank the Examiner for acknowledging Applicants' claim to foreign priority.

Prior to this response, claims 1-24 were pending in the application. By this response, Applicants amend claims 1-24 to place the claims more in conformance with U.S. practice and add claims 25-26. Claims 1-24 are not amended for reasons related to patentability. Claims 25-26 contain some of the subject matter removed from claims 11 and 19. Therefore, claims 1-26 are pending.

Applicants respectfully submit that the present application is in condition for allowance for at least the reasons that follow.

Acknowledgment of IDS submitted November 12, 2009

Applicants thank the Examiner for initialing the IDS submitted June 20, 2005. Applicants respectfully request that the references listed on the forms submitted with the Information Disclosure Statements filed by Applicant on November 12, 2009, be initialed by the Office and a copy of the form showing the initialization be provided to Applicant's agent. An additional copy of the Form PTO/SB/08 filed by Applicants on November 12, 2009 is enclosed for the PTO's convenience.

Specification Objections

Claims 1 and 16 are objected to for containing informalities. Applicants respectfully submit that the amendments to the claims renders the objection moot. Reconsideration and withdrawal of the objection is respectfully requested.

35 U.S.C. § 112 Rejection

Claims 1-2, 10-11, 16-17, 19, 21, and 24 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully submit that the amendments to the claims render the rejection moot. Applicants also note that claims 1-2, 10, 16, 21, and 24 have been amended to refer to the condenser or the compressor. Support for this amendment can at least be found on page 1, lines 11-14 of the application as filed. Reconsideration and withdrawal of the rejection is respectfully requested.

Rejection of claims 1-2, 4-10, 16-17, 20, and 22-23 based on Karl 1

Claims 1-2, 4-10, 16-17, 20, and 22-23 are rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Published Application No. 2001/0003311 (“Karl 1”).

A claim is only anticipated if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. (*Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See generally M.P.E.P. § 2131). A claim is also anticipated if a claim covers several compositions by a recitation of ranges and one of the compositions is in the prior art. (See generally M.P.E.P. § 2131.03). Karl 1 fails to satisfy the requirements of 35 U.S.C. § 102.

Claim 1 is directed to a method for operating an air conditioning system of a vehicle that includes, amongst other things, “controlling the circuit such that the intake pressure of the condenser or the compressor at least partially overshoots a saturation pressure in the circuit caused by the ambient temperature.” Independent claim 16 recites similar subject matter to that of claim 1.

The Office relies on Karl 1 to disclose the elements of claim 1. Applicants respectfully disagree. Karl 1 discloses an air conditioning apparatus. (Karl 1, para. 0001). Each embodiment of the apparatus comprises a refrigerant fluid circuit which has branches 1, 2, 3. (Karl 1, para. 0024). In each embodiment, a pressure sensor 40 is disposed in the branch 1. (Karl 1, para. 0035). In three of the four embodiments, a second pressure sensor 41 is disposed in the branch 2. (Karl 1, para. 0035). Power in an air conditioning loop is able to be controlled by making use of the sensor 41, if it is present, or the sensor 40. (Karl 1, para. 0035). Thus, Karl 1 discloses that the power in the air conditioning loop is controlled by one or two sensors. Karl 1, therefore fails to disclose, “controlling the circuit such that the intake pressure of the condenser or the compressor at least partially overshoots a saturation pressure in the circuit caused by the ambient temperature,” as recited in claim 1.

Withdrawal of the rejection is respectfully requested for claim 1. The withdrawal of the rejection is also respectfully requested for claim 16. Claims 4-10 depend from independent claim 1 and claims 17, 20, and 22-23 depend from independent claim 16.

Claims 4-10, 17, 20, and 22-23 should be allowed at least for the aforementioned reasons and for their additional recitations.

Rejection of claim 3 based on Karl 1 and Hesse

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Karl 1 in view of U.S. Published Application No. 2003/0177778 (“Hesse”). Claim 3 depends from independent claim 1. As previously mentioned, Karl 1 does not disclose the elements of claim 1. Hesse does not cure the deficiencies of Karl 1. Because none of Karl 1 and Hesse disclose the elements of claim 1, claim 1 and dependent claim 3 are allowable.

Additionally, the Office correctly recognizes that neither Karl 1 nor Hesse teach the elements of claim 3. (Office Action, pg. 8). Despite Karl 1 and Hesse’s failure to teach the elements of claim 3, the Office states that “[i]t would have been obvious to one having ordinary skill in the art at the time of invention to have an adjustable intake pressure, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.” (Office Action, pg. 8). Applicants respectfully assert that the Office is incorrect.

Not a single applicable fact of *In re Aller* is identified as corresponding to the facts at hand in the present application. Case law cannot be cited as a catch-all for substantiating a rejection – some analysis must be provided. (M.P.E.P. § 2144.04). That analysis is missing from the obviousness rejection on page 8 of the Office Action.

Favorable reconsideration and withdrawal of the rejection based on Karl 1 and Hesse is respectfully requested.

Rejection of claims 12 and 15 based on Karl 1 and Karl 2

Claims 12 and 15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Karl 1 in view of U.S. Patent No. 5,737,930 (“Karl 2”). Claims 12 and 15 depend from independent claim 1. As previously mentioned, Karl 1 does not disclose the elements of claim 1. Karl 2 does not cure the deficiencies of Karl 1. Because none of Karl 1 and Karl 2 disclose the elements of claim 1, claim 1 and dependent claims 12 and 15 are allowable. Favorable reconsideration and withdrawal of the rejection based on Karl 1 and Karl 2 is respectfully requested.

Rejection of claims 11, 13-14, 18-19, 21, and 24 based on Karl 1

Claims 11, 13-14, 18-19, 21, and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Karl 1. Claims 11 and 13-14 and claims 18-19, 21, and 24 depend from independent claims 1 and 16 respectively. As previously mentioned, Karl 1 does not disclose the elements of claim 1 or claim 16. Because Karl 1 fails to disclose the elements of claims 1 and 16, claims 1 and 16 and dependent claims 11, 13-14, 18-19, 21, and 24 are allowable.

Additionally, the Office recognizes that Karl 1 fails to disclose all the elements of claims 11, 13-14, 18-19, and 21. (Office Action, pgs. 9-10). The Office relies on case law to reject claims 11, 13-14, 18-19, and 21. (Office Action, pgs. 9-10). Applicants respectfully assert that the Office's reliance is misplaced.

Case law cannot be cited as a catch-all for substantiating a rejection – some analysis must be provided. (M.P.E.P. § 2144.04). The Office relies on *In re Aller* to argue that claim 11 is not allowable, *In re Stevens* to argue that claims 13-14 are not allowable, *In re Rose* to argue that claims 18-19 are not allowable, and *In re Japikse* to argue that claim 21 is not allowable. (Office Action, pgs. 9-10) The Office, however, fails to identify a single applicable fact of either *In re Aller*, *In re Stevens*, *In re Rose*, or *In re Japikse* as corresponding to the facts at hand in the present application. The analysis required to rely on the case law cited is missing from the Office Action.

Favorable reconsideration and withdrawal of the rejection based on Karl 1 is respectfully requested.

New Claims

New claims 25 and 26 have been added. Claims 25 and 26 depend from claims 11 and 19 respectively and are allowable over the prior art for at least the reasons discussed above and for their respective additional recitations.

Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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